

January 31, 2008

Mr. Mark B. Horton, Director
California Department of Public Health
1615 Capitol Avenue
Sacramento, CA 95899-7377

Dear Mr. Horton:

Final Report—Licensing and Certification Fee Methodology Review

Enclosed is the final report on our review of the California Department of Public Health's Licensing and Certification Division's (Division) fee methodology and staff utilization. The Department of Finance, Office of State Audits and Evaluations, performed this audit in accordance with the 2007 Budget Act.

The observations and recommendations in our report are intended to assist the Division in improving operations to ensure that the health facility fees are fairly allocated and that staff are efficiently utilized. The Division agreed with the majority of our observations and we appreciate its willingness to implement corrective actions. In accordance with Finance's policy of increased transparency, this report will be placed on our website.

We appreciate the Division's assistance and cooperation with this review. If you have any questions, please contact Kimberly Tarvin, Manager, or Rich Hebert, Supervisor, at (916) 322-2985.

Sincerely,

Original signed by:

David Botelho, Chief
Office of State Audits and Evaluations

Enclosure

cc: Ms. Kathleen Billingsley, Deputy Director, California Department of Public Health
Ms. Pamela Dickfoss, Assistant Deputy Director, California Department of Public Health
Ms. Gretchen Schmidt, Chief, Administration and Program Application Support Section
Branch, California Department of Public Health
Ms. Kim DeWeese, Chief, Administration Section, California Department of Public Health
Ms. Mary Cody, Audit Coordinator, California Department of Public Health

A SPECIAL REVIEW

California Department of Public Health
Licensing and Certification Division

Licensing and Certification Fee
Methodology and Staff Utilization

Prepared By:
Office of State Audits and Evaluations
Department of Finance

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EXECUTIVE SUMMARY

Pursuant to the Budget Act of 2007, the Department of Finance, Office of State Audits and Evaluations, reviewed the Department of Public Health's Licensing and Certification Division's (Division) licensing and certification fee methodology and staff utilization.

Based on our review, the Division cannot ensure that the licensing and certification fees to be assessed to the health facilities in fiscal year 2008-09 will fairly allocate the costs among the various health facilities. Because of design flaws and operational weaknesses in the timekeeping system, the Division will be unable to implement the new fee methodology in accordance with Health and Safety Code (HSC) 1266. The following corrective actions are necessary because of unsupported or inaccurate data, and poor timesheet design:

- Modify the existing timesheet format.
- Develop written procedures for the Headquarters timesheet adjustment process.
- Provide training to staff.
- Adequately support timesheet adjustments.
- Reconcile the timesheet data to the accounting data monthly.
- Maintain adequate supporting documentation to support all data used to calculate the fees.

Additionally, the Division could not demonstrate how the staff were utilized or whether the workload activities were efficiently performed during 2006-07 because it could not provide the staff utilization and systems analysis reports mandated by HSC 1266. It is essential that the Division develop the required staff utilization and systems analysis reports to effectively manage the Licensing and Certification Program and to assess whether the staffing estimates in the fee methodology reflect the actual work efforts required to meet the Division's workload requirements.

For additional information related to the issues discussed above, see the Observations and Recommendations section of the report. Appendix I provides an overview of the fee methodology and Appendix II provides a description of the timekeeping process. Recommendations were developed based on the evaluation of the data and documentation provided and discussions with Division staff.

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BACKGROUND, OBJECTIVES, SCOPE, AND METHODOLOGY

Background

The California Department of Public Health, Licensing and Certification Division (Division), is responsible for licensing and certifying health care facilities in accordance with state and federal guidelines. Certification of health facilities operating in California is a requirement for ongoing receipt of federal Medicare funding. Licensing is a state requirement that health facilities must meet to operate legally as health care providers in California. Other Division activities include providing education to consumers and health care providers and investigating complaints.

The California Health and Safety Code (HSC) Section 1266 was amended by Chapter 74 of the Statutes of 2006 (AB 1807), changing the Licensing and Certification Program (Program) from a General Fund program to a Special Fund program. Specifically, the Division is to be supported entirely by federal and special funds, instead of federal and General Funds, beginning July 1, 2009, unless funds are specifically appropriated from the General Fund in the annual Budget Act or other enacted legislation.

To meet the required provisions of HSC 1266, the Division created a new timekeeping system to capture more detailed workload data by facility type and activity type beginning July 2006. However, because the new timekeeping system was not implemented prior to fiscal year 2006-07, the 2007-08 fees were calculated using estimates based on the 2005-06 federal Center for Medicare/Medicaid Services (CMS) data and other information. The CMS data provides statistics regarding the standard average hours required to complete the activities that comprise mostly federal surveys that the Division is required to complete each year, but only includes some state licensing workload data.

Because HSC 1266 gradually eliminates the General Fund appropriation, the Division developed a fee methodology to allow it to become self-supporting through payments of fees from the health care facilities. This caused the licensing and certification fees to rise significantly; without a corresponding increase in services. The health care facilities raised concerns regarding the fee increase because they expected to see an increase in services provided by the Division. As a result, the 2007 Budget Act required a review of the licensing and certification fee methodology and staff utilization.

Objectives and Scope

Pursuant to the Budget Act of 2007, Chapters 171 and 172 of the Statutes of 2007 (4265-001-3098, Provision 2), the Department of Finance, Office of State Audits and Evaluations (Finance), performed a review of the licensing and certification fee methodology and staff utilization. The objectives of our review were to assess whether the:

- Licensing and certification fee methodology that will be used to calculate the 2008-09 fees complies with requirements of HSC Section 1266.
- The 2006-07 data supporting 2008-09 licensing and certification fee calculations is reliable.
- Staff positions were efficiently utilized during 2006-07.

The HSC sections related to the Department of Mental Health fees and reporting responsibilities were not included in the scope of the review. Additionally, we did not evaluate the efficiency and effectiveness of the Program's operations.

Methodology

To assess whether the licensing and certification fee methodology complied with HSC Section 1266, the following steps were performed:

- HSC Section 1266 and Program regulations, policies, and procedures were reviewed to gain an understanding of the requirements.
- Interviews were conducted with Division management and staff to gain an understanding of the following:
 - Administration and calculation of the fees.
 - Timesheet system implemented in 2006-07.
 - Fee billing process.
 - Reconciliation of timesheet data with official accounting records.
- Timesheets were evaluated to determine whether they reconciled to workload hours and standard average hour computations.
- Reports and timesheet data were requested to evaluate the staff utilization.
- Information and reports mandated by HSC Section 1266 were requested to evaluate other data used in the fee calculations.

The review was performed during the period October 30, 2007 through November 16, 2007. The Observations and Recommendations section of the report discusses the issues identified. Appendix I provides an overview of the licensing and certification fee methodology and Appendix II describes the timekeeping process. Recommendations were developed based on the evaluation of the data and documentation provided, and discussions with Division staff.

OBSERVATIONS AND RECOMMENDATIONS

A review was conducted of the Department of Public Health Licensing and Certification Division's (Division) licensing and certification fee methodology. The following observations and recommendations were identified:

OBSERVATION 1: Licensing and Certification Fees May Not Be Fairly Assessed Among the Health Facilities

The Division cannot ensure that the licensing and certification fees to be assessed to the health facilities in fiscal year 2008-09 will fairly allocate the costs among the health facilities due to design flaws and operational weaknesses in the timekeeping system. Additionally, other data required to calculate the fees is either unsupported or inaccurate.¹ Refer to Appendix I for the licensing and certification fee methodology and Appendix II for a description of the timekeeping system.

Timekeeping System:

A timekeeping system was implemented in fiscal year 2006-07 to meet the requirements of Health and Safety Code (HSC) Section 1266. This timekeeping system was designed to capture surveyor hours by field office, facility type, and activity type for use in the calculation of the licensing and certification fees. Based on our review of the timesheets, accounting data, and interviews with staff, the following design flaws and operational weaknesses were identified:

Design Flaws:

The timekeeping system does not capture actual hours spent on each individual survey completed or the actual hours spent on surveying a specific facility. As a result, the standard average hours required to complete each activity cannot be accurately calculated.

Operational Weaknesses:

The data captured by the timekeeping system for 2006-07 is unreliable for calculating the 2008-09 licensing and certification fees due to the following:

- Inaccurate, incomplete, and missing timesheets.
- Lack of timely timesheet corrections.
- Unsupported changes made to timesheet data for the period July 2006 through April 2007.
- Variances between timesheet data and accounting reports.
- Monthly timesheet reconciliations not performed.
- Lack of written procedures for the timesheet adjustment process performed by Headquarters.

¹ To calculate the 2008-09 licensing and certification fees, the Division will likely use the federal Center for Medicare/Medicaid Services (CMS) data and other estimates instead of the Division's timesheet data. The CMS data provides statistics regarding the standard average hours required to complete the activities that comprise mostly federal surveys that the Division is required to complete each year, but only includes some state licensing workload data.

Other Data:

Some data used in the 2007-08 fee calculation was not adequately supported or the information did not agree to the source documentation provided. Unless the following issues are corrected, the 2008-09 fee calculations will be based on the same type of unsupported or inaccurate data.

- Facility category cost adjustments for ProRata, retirement, statewide surcharge, employee compensation, price increase, and a one-time adjustment which affect the total costs calculated were supported only by an e-mail for the 2007-08 licensing and certification fees calculated.
- Total outpatient facilities and total beds for in-patient facilities used in the 2007-08 fee rate calculations did not agree to the Electronic Licensing Management System reports.

The HSC Section 1266 (d)(1)(C) requires significant cost items to be charged to the related fee categories. Therefore, it is imperative that all the data used in the licensing and certification fee calculations is accurate and fully supported to ensure that the costs are fairly allocated among the health facilities.

Recommendation: To correct the timekeeping system weaknesses and ensure that the 2008-09 licensing and certification fees fairly allocate the costs among the health care facilities, the Division must perform the following:

- Modify the existing timesheet format to capture specific facilities surveyed and hours spent on individual surveys.
- Develop written procedures for the Headquarters timesheet adjustment process and provide training to staff.
- Ensure that all timesheet adjustments are adequately supported, including changes made, purpose of changes, documentation supporting the need for the change, and management approval.
- Perform monthly reconciliations of the timesheet data and the accounting data.
- Retain adequate supporting documentation for data used in the licensing and certification fee calculations.

OBSERVATION 2: Division Management Could Not Demonstrate How the Staff Positions Were Used or Whether the Workload Activities Were Efficiently Performed for Fiscal Year 2006-07

Because the Division could not provide the staff utilization and systems analysis reports mandated by HSC Section 1266, we were unable to determine whether staff positions were efficiently utilized during 2006-07. Workload data is necessary to effectively manage the Licensing and Certification Program (Program) and assess whether the staffing estimates in the fee methodology reflect the actual work efforts required to meet the Division's workload requirements.

Recommendation: The Division must ensure that accurate data is available to develop the staff utilization and systems analysis reports mandated by HSC Section 1266 to demonstrate effective management of the Program.

CONCLUSION

The Department of Public Health Licensing and Certification Division (Division) needs to support the Licensing and Certification Program (Program) entirely with federal and Special Fund revenue beginning July 1, 2009, unless funds are specifically appropriated from the General Fund in the annual Budget Act or other enacted legislation.

The design flaws and operational weaknesses of the timekeeping system need to be corrected before the Division can ensure licensing and certification fees will be fairly allocated among the health facilities. Additionally, the Division needs to compile accurate data to demonstrate how staff were utilized for 2006-07.

To fully convert the program to a self-supporting Special Fund, and ensure fees are fairly allocated among the health facilities, it is imperative that corrective actions to resolve the above issues are implemented. Finally, it is vital to the success of the Program that the Division ensures staff are efficiently utilized to carry out the Program objectives.

Licensing and Certification Fee Methodology

The California Department of Public Health Licensing and Certification Division's (Division) licensing and certification fee methodology requires calculation of the following three factors to develop the annual health facility license fees:

- Workload Percentage for Each Facility Type
- Estimated Costs by Facility Type
- Fee Rate for Each Facility Type

Workload Percentage for Each Facility Type

The workload percentage for each facility type is calculated as follows:

1. Identify all facilities requiring licensure.
2. Group these facilities by facility type.
3. Identify the annual number of activities required for each facility type. Activities include licensing surveys, recertification surveys, federal targeted surveys, initial certification surveys, etc.²
4. Determine the estimated standard average hours (SAH) required to complete each activity.³
5. For each activity type performed for a specific facility type, calculate the total estimated workload hours using the planned activities and other historical or estimated data.
6. Separate the federal workload hours from the nonfederal workload hours for each activity type using the estimated distribution percentages.
7. Total the nonfederal workload hours for each facility type.
8. Total all nonfederal workload hours.
9. For each facility type, calculate percentage of the facility type's nonfederal workload hours to the total nonfederal workload hours.

Estimated Costs by Facility Type

The costs by facility type are calculated as follows:

1. Combine similar facility types together to equalize the fee rates among these facilities.
2. Allocate the baseline budget amounts to each facility type based on the calculated workload percentages.⁴

² The federal activities are mandated by the Center for Medicare and Medicaid Services (CMS). State statutes and other requirements mandate the state-only activities required.

³ The enhanced timekeeping system implemented to collect the 2006-07 data was developed to collect the hours by facility and activity type so that the SAH could be calculated based on actual hours.

⁴ The facility type groupings include: (1) Skilled Nursing Facilities, Intermediate Care Facilities (ICF), and Congregate Living Health Facilities; (2) ICF for Developmentally Disabled (DD), ICF DD Nursing, and ICF-DD Habilitative; (3) General Acute and Acute Psychiatric Hospitals.

3. Distribute the Budget Change Proposal (BCP) and Finance Letter adjustments to the facility types based on the requirements in the specific BCP or Finance Letter. If the BCP or Finance Letter does not identify the specific facility type, the costs are allocated to all facility types based on the calculated workload percentage.
4. Allocate the overhead, benefits, other statewide adjustments, and one-time loan repayment costs to the facility types based on the calculated workload percentage.
5. Distribute any cost reductions such as unspent prior year funding, specific facility subsidies, and salary savings to the facility types based on legislative and Division decisions.
6. Total the estimated costs for each facility type.⁵

Fee Rate for each Facility Type

The fee rates for each facility type are calculated as follows:

1. Outpatient Facilities—Divide the total estimated Program costs for each facility type by the number of facilities.
2. In-Patient Facilities—Divide the total estimated Program costs for each facility type by the number of beds.

The number of facilities or beds used to calculate the fee rate for each facility type includes both state-owned and non-state-owned facilities. The Division recoups fees for survey activities performed in exempted state-owned facilities currently from the General Fund.

⁵ The total of the baseline budget and adjustments should equal the total estimated costs calculated for all facility types. Additionally, the total estimated cost of all licensing and certification activities should equal the finding requirements of the Licensing and Certification Fund.

Timekeeping Process

In July 2006, the Licensing and Certification Division (Division) implemented a timekeeping system in response to the Health and Safety Code (HSC) Section 1266. The timekeeping system was developed to provide more information regarding surveyor hours by field office, facility type, and activity type. Employees are required to record hours worked on timesheets categorized by facility type, survey type, and survey activity for each workday. There are five different types of timesheets available for use depending upon the classification as follows: (1) Regular Surveyor, (2) State Facility, (3) Life Safety Code, (4) Consultant, and (5) Los Angeles County contracted surveyors. The timesheets are similar in function and layout; however, each capture different activities that are specific to that classification.

Employees record their time by 15-minute increments for each workday on a weekly basis. At the end of each week, the employee signs and dates the completed timesheet and submits both the hardcopy and electronic version to the district manager or supervisor for review and approval. If corrections are necessary, the timesheets are returned to the employee for correction and resubmission. Upon approval, the district manager or supervisor transfers the electronic timesheet to their respective district office's shared folder by the tenth of the following month. Only the district manager or supervisor has access to the specific directory for the timesheets they approved. Additionally, the district managers are required to complete a Monthly Surveyor Verification Form by the tenth of the month to ensure that all surveyor timesheets are accounted for and whether or not they worked on surveys during the month. Supervisors or managers who perform surveys during the month are also included on this form.

The Division's Program Application Support Section (PASS) operates this timekeeping system and is responsible for extracting the data from the district office folders to collect monthly timesheet information. Specifically, the PASS transfers the files in the district office folders to a secured directory in which only select individuals have access and generate timesheet error reports and the Accounting Stat Reports.

The Division planned to use this data as a component in the calculation of the licensing and certification fees for fiscal year 2008-09. However, due to weaknesses in the design and operation of the timekeeping system discussed in the Observations and Recommendations section of this report, it is likely that the Division will rely on the Center for Medicare and Medicaid Services data and other estimates to calculate the fees for 2008-09.

DEPARTMENT RESPONSE



MARK B HORTON, MD, MSPH
Director

State of California—Health and Human Services Agency
California Department of Public Health



ARNOLD SCHWARZENEGGER
Governor

JAN 16 2008

Janet I. Rosman
Assistant Chief
Department of Finance
Office of Audits and Evaluations
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Dear Ms. Rosman:

The California Department of Public Health (CDPH) has prepared its response to the Department of Finance draft report entitled, "Licensing and Certification Fee Methodology Review." The CDPH appreciates the opportunity to provide the Department of Finance with responses to the draft report.

Please contact Kathleen Billingsley, Deputy Director, Licensing and Certification, at (916) 440-7360 if you have any questions.

Sincerely,

Mark B. Horton, M.D. M.S.P.H.
Director

Enclosure

cc: Kathleen Billingsley
Deputy Director
Licensing and Certification
1615 Capitol Avenue, MS 3000
P.O. Box 997413
Sacramento, CA 95899-7413

**California Department of Public Health's Response to the
Department of Finance's Draft Report Entitled *Licensing and Certification Fee
Methodology and Staff Utilization***

Recommendation 1

To correct the timekeeping system weaknesses and ensure that the 2008-09 licensing and certification fees fairly allocate the costs among the health care facilities, the Division must perform the following:

- Modify the existing timesheet format to capture specific facilities surveyed and hours spent on individual surveys.
- Develop written procedures for all timekeeping processes and provide training to staff.
- Ensure that all timesheet adjustments are adequately supported, including changes made, purpose of changes, documentation supporting the need for the change, and management approval.
- Perform monthly reconciliations of the timesheet data and the accounting data.
- Retain adequate supporting documentation for data used in the licensing and certification fee calculations.

Response

The California Department of Public Health (CDPH) partially agrees with the above recommendations.

In June of 2006, the Licensing and Certification Program (L&C) implemented a new Surveyor Timekeeping System. The purpose of this new and improved timekeeping system is to capture hours worked specific to facility type, survey type and activity type; and, accordingly, charge the L&C program expenditures to the corresponding L&C funds. In addition, L&C became special funded starting Fiscal Year (FY) 2006-07. As a Special Fund program, L&C must also ensure that sufficient revenues are collected to support costs associated with performing all licensing activities. The task of ensuring that the appropriate revenue is collected is accomplished through the collection of surveyor time by activity to calculate the correct licensing fees for each facility type. To achieve accurate compliance with these programmatic requirements, it is of utmost importance to capture accurate surveyor time spent performing specific licensing activities by facility type.

Modify Existing Timesheet Format:

The existing timekeeping system is 100% Excel based. The current timekeeping system captures the hours worked by the facility type, survey type, and survey activity. It does not capture the number of surveys performed. The number of federal and state surveys performed is captured via the Federal Automated Survey Processing Environment (ASPEN). CDPH recognized that it must link the hours worked with the number of surveys completed. CDPH is in the initial stages of drafting an Informal Feasibility Study Report (IFSR) to implement an integrated timekeeping system that will

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Methodology and Staff Utilization***

allow L&C to capture specific survey information in relation to the number of surveys completed. This will provide solid reliable statistical data to ensure equitable allocation of L&C costs among the health care facilities.

Written Procedures:

Contrary to the draft audit findings, CDPH does have timekeeping procedures. On October 22, 2007, CDPH provided the Department of Finance (DOF) with a copy of the Timekeeping System Procedures Manual. The manual was originally developed with the implementation of the timekeeping system. Instructions are also on the Licensing and Certification (L&C) Timekeeping Intranet website. The hard copy manual and the intranet are updated as changes occur. Upon implementation of the timekeeping system, training was conducted for all surveyor staff. Timekeeping updates are distributed to all surveyor staff. Each district office is responsible for training staff as they are hired.

Adjustments and Monthly Reconciliation:

L&C District Managers/Supervisors are responsible for ensuring that all timesheets for all their survey staff are reviewed for accuracy and saved in their respective district office folder for further processing by L&C Headquarters (HQ). In March 2007, L&C identified that we did not have adequate staff assigned to the project or sufficient quality control procedures in place to ensure all timesheets were accurately completed and submitted. Over the next two months, L&C undertook the enormous process of reviewing all timesheets (approximately 17,000) received between July 2007 and April 2007, to ensure they were correct and to ensure that we had captured 100% of all necessary timesheets. The initial task was to, 1) identify all staff that was required to complete timesheets and to ensure that we had the correct number of timesheets for each survey employee in any given month, and 2) to identify anomalies such as missing, duplicate, or erroneous timesheets. This was done both manually and via automated tasks using Excel. Timesheet data by individual employee was compared against and reconciled to the Calstars Online Reporting Environment (CORE). Secondly, all identified errors were to be corrected. Corrected timesheets were submitted to HQ. During the correction phase, staff continued to run error reports to identify timesheets that still contained errors. Any additional errors were returned to the applicable district office for correction. The Program's objective is to obtain a 100% timesheet reporting accuracy rate. However, with the impending close Fiscal Year (FY) 2006-07, L&C accepted a 95% accuracy rate. A 5% error rate is acceptable for auditing purposing. Those timesheets that still contained errors (5%) were not included in the statistical accounting reports.

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Since June 2007, L&C:

- Has implemented a Monthly Surveyor Verification Form. This form is to be completed monthly by each district office to ensure that all required timesheets are accounted for.
- Continues to run monthly error reports to ensure timesheets are correct.
- Updated timesheets to include validation points.
- Is in the initial stages of drafting an Informal Feasibility Study Report (IFSR) to implement a more accurate automated timekeeping system.
- Established and staffed specific functions within the Fiscal and Contracts Unit to ensure timesheet statistics reporting and adjustments are accurately reported and supported.

Supporting Documentation:

L&C recognizes the need to be more diligent in documenting data used, memorializing how the data was used, and identifying the source of the data when calculating facility license fees. L&C will implement a more thorough documentation process for future fee calculations.

Recommendation 2

The Division must ensure that accurate data is available to develop the staff utilization and systems analysis reports mandated by HSC Section 1266 to demonstrate effective management of the Program

Response

The California Department of Public Health (CDPH) agrees with the above recommendation and currently meets the mandates of HSC Section 1266 as stated.

According to page four of the draft DOF audit report, "the Division could not provide the staff utilization and systems analysis reports mandated by HSC Section 1266." However, L&C did provide DOF with the Health Facilities License Fees Annual Report for FY 2007-08. Pages four through 11 of the report contain the Staffing and Systems Analysis Report as required by HSC Section 1266(d)(2). The Report consists of five charts depicting:

**California Department of Public Health's Response to the
Department of Finance's Draft Report Entitled *Licensing and Certification Fee
Methodology and Staff Utilization***

- The number of surveyors and administrative support personnel devoted to the licensing and certification of health care facilities – 1266(d)(2)(B)(i)
- The percentage of time devoted to licensing and certification activities for the various types of health facilities – 1266(d)(2)(B)(ii)
- The number of facilities receiving full surveys and the frequency and number of follow up visits - 1266(d)(2)(B)(iii)
- The number and timeliness of complaint investigations - 1266(d)(2)(B)(iv)
- Data on deficiencies and citations issued, and numbers of citation review conferences and arbitration hearings - 1266(d)(2)(B)(v)
- Other applicable activities of the licensing and certification division - 1266(d)(2)(B)(vi)
- The Percent of time devoted to Surveyor and Administrative Support Personnel – HSC Section 1266(d)(2)(B)(i)

Recommendation 3

The Division should clarify with the Legislature whether the intent of HSC Section 1266 is to subsidize the exempted health facilities fee indefinitely with General Fund. If the intent is to eliminate all General Fund appropriations, the Division will need to perform one of the following:

- Modify the fee methodology to spread the associated costs to the health facilities required to pay fees.
- Propose an amendment to HSC Section 1266 code to require that exempted facilities pay their share of the fees.
- Identify another funding source.

Response

The California Department of Public Health (CDPH) disagrees with the above recommendation.

Current statute provides language that articulates legislative intent to fund exempt health facilities fees using the General Fund (GF). Per HSC Section 1266(a), the Licensing and Certification Division shall be supported entirely by federal funds and special funds by no earlier than the beginning of fiscal year (FY) 2009-10 unless

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otherwise specified in statute, or unless funds are specifically appropriated from the GF in the annual Budget Act or other enacted legislation. For FY 2007-08, GF support shall be provided to offset licensing and certification fees in an amount of not less than two million seven hundred eighty-two thousand dollars (\$2,782,000).

Pursuant to HSC Section 1266(f)(1), no fees shall be assessed or collected pursuant to this section from any state department, authority, bureau, commission, or officer, unless federal financial participation would become available by doing so and an appropriation is included in the annual Budget Act for that state department, authority, bureau, commission, or officer for this purpose. No fees shall be assessed or collected pursuant to this section from any clinic that is certified only by the federal government and is exempt from licensure under Section 1206, unless federal financial participation would become available by doing so.

GF monies received for other state departments, authorities, bureaus, commissions, or officers are in the form of a GF transfer into the Licensing and Certification Program Fund (Special Fund). No "subsidy" is received for these exempt facilities.

For FY 2007-08, the GF appropriation was a subsidy for selected nonexempt facilities to offset licensing and certification fees to phase in the right-sizing methodology.

Additional L&C Comments to Audit Observations

Audit Observation:

Page three of the draft DOF audit report, DOF states..... "other data required to calculate the fees is either unsupported or inaccurate¹."

The footnote to the audit report states.....¹"To calculate the 2008-09 licensing and certification fees, the Division will likely use the federal Center for Medicare/Medicaid Services (CMS) data and other estimates instead of the Division's timesheet data. The CMS data provides statistics regarding the standard average hours required to complete the activities that comprise mostly federal surveys that the Division is required to complete each year, but does not include state licensing workload."

L&C Comment:

CMS requires a state match for some of the federal workload performed. Therefore, it is appropriate to use data obtained from the federal system as part of the fee calculations.

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Audit Observation:

Page four of the draft DOF audit report states:

- Adjustments to the facility category costs that affect the total costs calculated were supported only by an email for the 2007-08 licensing and certification fees calculated.
- Total outpatient facilities and total beds for in-patient facilities used in the 2007-08 fee rate calculations did not agree to the Electronic Licensing Management System reports.

L&C Comments:

Adjustments made to the final facility category costs that affected the total costs calculated are documented in the Health Facility License Fees Annual Report FY 2007-08 binder provided to DOF. Final costs were based on 1) an email detailing the required adjustments for various mandatory administrative costs as provided by the Department's Budget office, and 2) information provided in the FY 2007-08 Change Book (Worksheet – Conference Actions and Side-by-Side Worksheet) - as provided by DOF.

It is difficult to respond to the statement that the Electronic Licensing Management System (ELMS) reports did not agree with the outpatient facilities and total beds for in-patient facilities used in the 2007-08 fee rate calculation. There could be various reasons for variation in facility/bed counts. 1) Licensed opened/active facility counts in ELMS are always changing and are point-in-time, 2) The ELMS report in the fee binder contains every category of facility. The fee workload calculations consolidate some of those categories, 3) the ELMS report did not include the "certified only" facility count, 4) the number of State Licensed-Only Surveys noted in the workload calculations may also be facilities that require a federal survey and therefore are noted in the federal survey and state survey workload, 5) initial certifications noted on the workload are new facilities not yet licensed and would not be recorded in ELMS, and 6) there is also a difference between counting pure licensed open and active facilities and including the various distinct parts of a facility. For instance, a General Acute Care Hospital could have Skilled Nursing Facilities and Intermediate Care Facilities as distinct parts.

Again, L&C recognizes the need to be more diligent in documenting data used, how the data was used, and the source of the data when calculating facility license fees. L&C will implement a more thorough documentation process for future fee calculations.

EVALUATION OF RESPONSE

The Department of Finance, Office of State Audits and Evaluations (Finance), received the response from the California Department of Public Health Licensing and Certification Division (Division) and have incorporated the response into our final report. Except as noted below, the Division concurred with our observations and recommendations.

Observation 1: Licensing and Certification Fees May Not Be Fairly Assessed Among the Health Facilities

The Division indicated that a Timekeeping System Procedures Manual was provided to Finance and asserts that it achieved a 95 percent timesheet accuracy rate. Additionally, the Division states adjustments to facility category costs that affect the total costs calculated were supported by both an e-mail from the Department's Budget Office and information provided in the 2007-08 Change Book.

Lack of Written Procedures

We were unable to confirm the accuracy of the 2006-07 timesheet data due to a lack of supporting documentation maintained by the Division. Written procedures did not exist for the timesheet review and adjustment process performed by the Division's Headquarters office for the July 2006 through April 2007 timesheets. This lack of procedures may have contributed to the lack of supporting documentation maintained for the changes made to the timesheet data for this period.

We concur that the Timekeeping System Procedures Manual was provided and that it included various procedures for preparing timesheets, submitting timesheets to the Headquarters Office, and some error correction procedures. To clarify the final report, we restated the issue to indicate that the lack of written procedures for the timesheet adjustment process performed by Headquarters is the operational weakness.

Supporting Documentation for Adjustments

We concur that we received both the e-mail and the Change Book documentation in support of the adjustments. While the majority of the adjustments were supported by documentation in the Change Book, the cost adjustments for ProRata, retirement, statewide surcharge, employee compensation, price increase, and a one-time adjustment were supported only by an e-mail from the Budget's Office. Staff requested additional documentation to verify the information in the e-mail; however, additional documentation was not provided. To clarify this issue, the final report was modified to reflect the specific adjustments that were only supported by the e-mail.

Observation 2: Division Management Could Not Demonstrate How the Staff Positions Were Used or Whether the Workload Activities Were Efficiently Performed for Fiscal Year 2006-07

DOF acknowledges receipt of the Health Facilities License Fees Annual Report for 2007-08, which is based upon 2005-06 data. The objective of our review was to determine whether staff were effectively utilized during 2006-07, for which data was not provided. Therefore, the finding remains as originally stated in the report.

Observation 3: The Licensing and Certification Program Will Not Be Entirely Supported by Federal and Special Funds

The Division disagrees with the recommendation and asserts the legislative intent is to fund exempt health facilities using the General Fund.

We agree the legislation does provide the ability for the exempted facilities to be billed if federal participation would become available by doing so, and an appropriation is included in the annual Budget Act for that state department, authority, bureau, commission, or officer for this purpose. Originally, Finance believed that the exempted facilities were not paying the fees. However, the response indicates that General Fund monies are currently received for these entities. As a result, this significantly reduces the risk that a General Fund appropriation will be required to cover shortfalls related to the exempt facilities. Therefore, we have removed this finding from the final report.

However, if circumstances change and the exempted facilities are no longer paying their portion of the fees, we recommend the department reconsider the following options to ensure that the Licensing and Certification Fund remains fully funded by federal and Special Revenue monies.

- Modify the fee methodology to spread the associated costs to the health facilities required to pay fees.
- Propose an amendment to HSC Section 1266 code to require that exempted facilities pay their share of the fees.
- Identify another funding source.